

RULE CV-3. COMMENCEMENT OF ACTION

(a) **Civil Cover Sheet.** The clerk is authorized and instructed to require a complete and executed AO Form JS 44, Civil Cover Sheet, which shall accompany each civil case to be filed. The clerk is instructed to accept for filing any civil case which is not accompanied by a complete and executed Civil Cover Sheet and thereafter advise the court of the violation of the rule and seek order of court. Persons filing civil cases, who are at the time of such filing in the custody of Civil, State or Federal institutions, and persons filing civil cases pro se, are exempted from the foregoing requirement.

(b) **Habeas Corpus and Motions Pursuant to 28 USC § 2255.** Petitions for writ of habeas corpus and motions filed pursuant to 28 U.S.C. § 2255 by persons in custody shall be in writing, signed and verified. Such petitions and motions shall be on forms supplied by the Court and an original and two copies must be filed with the Clerk of the District Court for the Western District of Texas in the proper division.

(c) Petitions to Stay Execution of State Court Judgments.

(1) A plaintiff who seeks a stay of enforcement of a state court judgment or order shall attach to the petition a copy of each state court opinion and judgment involving the matter to be presented. The petition shall also state whether or not the same plaintiff has previously sought relief arising out of the same matter from this court or from any other federal court. The reasons for denying relief given by any court that has considered the matter shall also be attached. If reasons for the ruling were not given in a written opinion, a copy of the relevant portions of the transcripts shall be supplied. If the stay involves a death penalty, the petition shall be filed at least five (5) days before the execution date or the petitioner must establish good cause for any late filing.

(2) If any issue is raised that was not raised, or has not been fully exhausted, in state court, the petition shall state the reasons why such action has not been taken.

(3) This court's opinion in any such action shall separately state each issue raised by the petition and rule expressly on each issue stating the reasons for each ruling made.

(4) If a certificate of probable cause is issued in any such case, the court will also grant a stay of execution to continue until such time as the Court of Appeals expressly acts with reference to it.

(5) If the same petitioner has previously filed in this court an application to stay enforcement of a state court judgment or for habeas corpus relief, the case shall be assigned to the judge who considered the prior matter.

(6) A second or successive petition for habeas corpus may be dismissed if the court finds that it fails to allege new or different grounds for relief, if the failure of the petitioner to assert those grounds in a prior petition constitutes an abuse of the writ, or if the petition is frivolous and entirely without merit. Even if it cannot be concluded that a petition should be dismissed on these grounds, the court will expedite consideration of any second or successive petition.